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7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**  
9 **SAN FRANCISCO DIVISION**  
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11 BAO YI YANG; WEI WANG; and LIANG  
12 XIAN FU,

13 Plaintiffs,

14 v.

15 SHANGHAI GOURMET, LLC, dba  
16 SHANGHAI GOURMET; XU LIANG  
17 SHEN; and BO JUAN LIU,

18 Defendants.

Case No. 07-cv-04482 NC

**SECOND ORDER TO REMEDY  
DEFICIENCY**

19 In the conclusion of its order after the second bench trial, the Court directed further  
20 briefing on seven topics needed to enter a final judgment: (1) the calculation of damages to  
21 be awarded to each plaintiff under the FLSA and California law, including the proper time  
22 periods for the award; (2) the amount of prejudgment interest to be assessed; (3) whether  
23 and how much restitution is proper under California Business and Professions Code  
24 § 17203; (4) the amount of waiting time penalties to be assessed; (5) the amount of  
25 liquidated damages to be assessed; (6) the amount of the reasonable attorneys' fees to be  
26 awarded; and (7) whether the judgment should be against all defendants jointly and  
27 severally, against Shanghai Gourmet LLC only, or otherwise. Dkt. No. 156 at 19.

28 Plaintiffs initially did not respond to the order for further briefing, then requested an

1 extension of time, and finally responded with an incomplete response. Dkt. Nos. 157, 158,  
2 and 160. Plaintiffs' supplemental trial brief is silent as to issues three (restitution) and  
3 seven (which defendants are liable for the judgment and whether further proceedings are  
4 appropriate as to piercing the corporate veil). As to issue two (prejudgment interest),  
5 plaintiffs request that their response be postponed until ten days after the Court awards  
6 damages. As to issue six (attorneys' fees), plaintiffs request that their response be  
7 postponed until fourteen days after the Court enters judgment. Concerning the requests to  
8 change the briefing schedule, plaintiffs' counsel provides no information that he conferred  
9 with defendants' counsel or explanation as to why he waited until July 22 to make this  
10 request.

11 Because defaults are disfavored, the Court alerts plaintiffs to the deficiencies on  
12 issues three and seven. Plaintiffs may supplement their post-trial brief by August 11. In the  
13 alternative, the Court interprets plaintiffs' silence as a waiver of their potential remedies to  
14 restitution and piercing the corporate veil. As to issues two and six, the requests to modify  
15 the briefing schedule are denied for lack of good cause. Plaintiffs must by August 11 either:  
16 (1) file a supplemental trial brief and supporting declarations; or (2) file a stipulation  
17 requesting a modified briefing schedule. The Court will consider a further non-response as  
18 a waiver of attorneys' fees and prejudgment interest.

19 The deadline for defendants' responsive post-trial brief is continued to August 25.  
20 Plaintiffs' reply is due seven days after defendants' brief.

21 IT IS SO ORDERED.

22 Date: August 4, 2014

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Nathanael M. Cousins  
United States Magistrate Judge